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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

29 MARC OPPERMAN, et al.,

Case No. 13-cv-00453-JST

30 Plaintiffs,

**CLASS ACTION**

31 v.

**STIPULATION REGARDING ENTRY OF  
JUDGMENT ON SETTLEMENT  
PURSUANT TO FEDERAL RULE OF CIVIL  
PROCEDURE 54(B)**

32 PATH, INC., et al.

THIS DOCUMENT RELATES TO ALL CASES

33 Defendants.

1           WHEREAS Plaintiffs filed a Motion For Final Approval of their settlement with the  
 2 remaining App Defendants<sup>1</sup> (ECF No. 910; the “Motion”) on November 30, 2017;

3           WHEREAS final approval of the App Defendant settlement will resolve all claims  
 4 remaining in this Court except for the misrepresentation claims (Counts Three through Six, ECF  
 5 No. 478) brought by plaintiff Stephen Dean against Apple, Inc.;

6           WHEREAS all parties agree that there is no just reason to delay issuance of an order  
 7 granting the Motion and entering judgment on Plaintiffs’ claims against the App Defendants, as  
 8 finality is required to provide the bargained-for relief to the class and doing so would fully  
 9 adjudicate all claims against the remaining App Defendants (*see Estakhrian v. Obenstine*, No.  
 10 CV 11-3480 FMO (CWx), 2016 U.S. Dist. LEXIS 147105, at \*36 (C.D. Cal. Oct. 24, 2016) (In  
 11 granting final approval of a class settlement, “find[ing] entry of judgment pursuant to Rule 54(b)  
 12 is proper because this order fully and finally adjudicates the claims of plaintiffs against the  
 13 settling defendants in this action.”));

14          WHEREAS issuance of a final approval order before all claims in the action are resolved  
 15 will not provide any party with an appellate right, as no party has standing to appeal approval of  
 16 a negotiated settlement to which no class member objected (*see Powers v. Eichen*, 229 F.3d  
 17 1249, 1256 (9th Cir. 2000) (holding that class members must object to preserve appellate  
 18 rights));

19          NOW, THEREFORE, THE UNDERSIGNED PARTIES AGREE that the Court, should  
 20 it determine that final approval of the App Defendant settlement is appropriate as prayed for in  
 21 the Motion, should determine that there is no just reason for delay in entering judgment on  
 22 Plaintiffs’ claims against the App Defendants and Apple (as released by the Settlement) within  
 23  
 24

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 26          <sup>1</sup> The App Defendants are Foodspotting, Inc. (“Foodspotting”), Foursquare Labs, Inc.  
 27 (“Foursquare”), Gowalla, Inc. (“Gowalla”), Instagram, LLC (“Instagram”), Kik Interactive, Inc.  
 28 (“Kik”), Kong Technologies, Inc. (formerly known as Path, Inc.) (“Path”), Twitter, Inc.  
 (“Twitter”), and Yelp! Inc. (“Yelp”).

1 the meaning of Federal Rule of Civil Procedure 54(b) so that the Settlement may become final  
2 and be implemented according to its terms.

3 IT IS SO STIPULATED.

4 Respectfully submitted,

5 Dated: December 12, 2017

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## **ATTESTATION**

I attest that concurrence in the filing of this document has been obtained from the other signatories listed above.

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